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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group: 1614

Confirmation No.: 8145

Application No.: 09/836,567

Invention: METHODS FOR IDENTIFYING
AND TREATING RESISTANT
TUMORS

Applicant: Sawyer et al.

Filed: April 17, 2001

Attorney
Docket: 3051-67789

Examiner: Goldberg, Jerome D.

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231

on January 22, 2003

Rebecca Ball

(Signature)

Rebecca L. Ball

(Printed Name)

TRANSMITTAL OF SUPPLEMENTAL DECLARATION & POWER OF ATTORNEY
AND STATEMENT UNDER 37 C.F.R. § 1.63(d)(2)

The Assistant Commissioner for Patents
Washington, D.C. 20231
Attn: Box RCE

Sir:

The captioned application was filed by Express Mail on April 17, 2001 as a continuation of prior U.S. Application Serial No. 08/793,659 (the '659 application). The captioned application was filed without a signed Declaration and Power of Attorney. A Notice to File Missing Parts of Nonprovisional Application was mailed on May 9, 2001. As permitted under 37 C.F.R. § 1.63(d)(1), in response to the Notice a copy of the Declaration and Power of Attorney filed in the prior '659 application was submitted to the Office on July 26, 2001.

A Notice of Allowance was issued in the captioned application on October 22, 2002. In reviewing the file in preparation for payment of the issue fee, it was noted that the copy

of the Declaration and Power of Attorney submitted in the captioned application in response to the Notice to File Missing Parts of Nonprovisional Application was an incomplete copy of the Declaration and Power of Attorney filed in the '659 application. The prior Declaration was signed in two parts and only one part was apparently filed in response to the Notice of Missing Parts. Accordingly, the accompanying Request for Continued Examination is being filed to submit, for the captioned application, a complete copy of the Declaration and Power of Attorney filed in the prior '659 application. A copy of both parts of the Declaration and Power of Attorney filed in the '659 application is transmitted herewith.

Furthermore, it is noted that the inventors of the subject matter of the originally filed claims in the captioned application are Jason Scott Sawyer, Stephen M. Spaethe, and James Jacob Starling. They were named as inventors on the unsigned declaration that accompanied the captioned application as filed. The prior (parent) '659 application (and the declaration filed in that case) named six inventors including inventors Sawyer, Spaethe, and Starling. When the copy of the '659 declaration was sent in response to the Notice to File Missing Parts of Nonprovisional Application, Applicants' attorney inadvertently failed to include a statement requesting the deletion of Gabriele Jedlitschky, Inka Leier, and Dietrich Keppler as named inventors as specified under 37 C.F.R. § 1.63(d)(2) resulting in the Office issuing a new filing receipt listing six inventors rather than the three inventors named on the original filing receipt. Accordingly, the request under 37 C.F.R. § 1.63(d)(2) is made herein. Applicants hereby request that Gabriele Jedlitschky, Inka Leier, and Dietrich Keppler be deleted as inventors in the captioned application.

Applicants believe that no fees are required with this submission. If any fees are required, the Assistant Commissioner is hereby authorized to charge the same to the account of Barnes & Thornburg, Deposit Account No. 10-0435, with reference to our matter 3051-67789.

Respectfully submitted,



Steven R. Lammert
Registration No. 27,653
Attorney for Applicant

SRL:glt
(317) 231-7258
Indianapolis, Indiana 46204

26.FEB.1997 16:07

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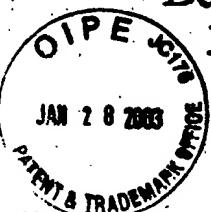
PTO/SB/103 (5-95)

Approved for use through 06/30/2002. GMB 0651-0223
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Part 2 of 2

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Declaration and Power of Attorney for Patent Application Erklärung für Patentanmeldungen mit Vollmacht



German Language Declaration

Als nachstehend benannter Erfinder erkläre ich hiermit zu Eides
Swtz:

dass mein Wohnsitz, meine Postanschrift und meine
Staatsangehörigkeit den im nachstehenden nach meinem Namen
aufgeführt Angaben entsprechen, dass ich nach bestem Wissen
der ursprüngliche, erste und alleinige Erfinder (falls nachstehend
nur ein Name angegeben ist) oder ein ursprünglicher, erster und
Mitarbeiter (falls nachstehend mehrere Namen aufgeführt sind)
des Gegensandes bin, für den dieser Antrag gestellt wird und für
den ein Patent für die Erfindung mit folgendem Titel beantragt
wird:

As a below named inventor, I hereby declare that

My residence, post office address and citizenship are as stated
next to my name.

I believe I am the original, first and sole inventor (if only one
name is listed below) or an original, first and joint inventor (if
plural names are listed below) of the subject matter which is
claimed and for which a patent is sought on the invention entitled

METHODS FOR IDENTIFYING AND TREATING RESISTANT TUMORS

the specification of which is attached hereto unless the following
box is checked:

(31.08.95)

was filed on 31 August 1995
as INTERNATIONAL APPLICATION, PCT
International Application Number PCT/US95/11125
and was amended on 09.05.96 and
28.08.96 (if applicable).

I hereby state that I have reviewed and understand the contents
of the above identified specification, including the claims, as
amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material
to patentability as defined in Title 37, Code of Federal
Regulations, § 1.56.

[Page 1 of 5]

Arden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any
attorney, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner of Patents and Trademarks,

German Language Declaration

Ich beanspruche hiermit ausländische Prioritätsvorteile gemäß Title 35, US-Code, § 119 (a)-(d), bzw. § 365(b) aller unten aufgeführten Auslandsanmeldungen für Patente oder Erfindungsrückenden, oder § 365(a) aller PCT internationale Anmeldungen, welche wenigstens ein Land außer den Vereinigten Staaten von Amerika bezeichnen, und habe nachstehend durch ankreuzen sämtliche Auslandsanmeldungen für Patente bzw. Erfindungsrückenden oder PCT internationale Anmeldungen angegeben, deren Anmeldung dem der Anmeldung, für welche Priority beansprucht wird, vorgelegt.

Prior Foreign Applications
(Frühere ausländische Anmeldungen)

P 44 32 563.0 Germany (DE)
(Number) (Country)
(Name) (Land)

(Number) (Country)
(Number) (Land)

Ich beanspruche hiermit Prioritätsvorteile unter Title 35, US-Code, § 119(a) aller US-Hilfsanmeldungen wie unten aufgeführt.

(Application No.) (Filing Date)
(Anmeldenummer) (Anmelddatum)

(Application No.) (Filing Date)
(Anmeldenummer) (Anmelddatum)

Ich beanspruche hiermit die unter Title 35, US-Code, § 120 nachstehenden Vorteile aller unten aufgeführten US-Patentanmeldungen bzw. § 365(a) aller PCT internationale Anmeldungen, welche die Vereinigten Staaten von Amerika bezeichnen, und erkenne, dassfern der Gegenstand eines jeden früheren Anspruchs dieser Patentanmeldung nicht in einer US-Patentanmeldung, bzw. PCT internationale Anmeldung ist in einer gemäß dem ersten Absatz von Title 35, US-Code, 112 vorgeschriebenen Art und Weise offenbart wurde, meine Pflicht zur Offenbarung jeglicher Informationen zu, die zur Prüfung der Berechtigung in Einklang mit Title 37, Code of Federal Regulations, 1.56 von Belang sind und die im Zeitraum zwischen dem Anmeldetag erfüllten Patentanmeldung und dem nationalen oder im Rahmen des CTI gültiges internationale Anmeldung bekannt geworden sind.

98/298,644 . 31 August 1994 (31.08.94)
(Application No.) (Filing Date)
(Anmeldenummer) (Anmelddatum)

(Application No.) (Filing Date)
(Anmeldenummer) (Anmelddatum)

I erkläre hiermit, daß alle in der vorliegenden Erklärung von mir machen Angaben nach bestem Wissen und Gewissen der Wahrheit entsprechen, und ferner daß ich diese eidesstattliche Erklärung in Anwesenheit dessen ablegte, daß wissenschaftlich und vertraulich falsche geben oder dergleichen gemäß § 1001, Title 18 des US-Code strafbar sind mit Gefängnis und/oder Geldstrafe bestraft werden können und I derwegen wissenschaftlich und vertraulich falsche Angaben die Schwierigkeit der vorliegenden Patentanmeldung oder eines Grund deren erweiterten Patentes gefährden können.

I hereby claim foreign priority under Title 35, United States Code, § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having filing date before that of the application on which priority is claimed.

Priority Not Claimed
Priorität nicht beansprucht

(13.09.94)
13 September 1994
(Day/Month/Year Filed)
(Tag/Monat/Jahr der Anmeldung)

(Day/Month/Year Filed)
(Tag/Monat/Jahr der Anmeldung)

I hereby claim the benefit under Title 35, United States Code, § 119(a) of any United States provisional application(s) listed below.

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or § 365(a) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

PATENTED
(Granted) (patented, pending, abandoned)
(Gesamt) (patentiert, schwebend, aufgegeben)

(Granted) (patented, pending, abandoned)
(Gesamt) (patentiert, schwebend, aufgegeben)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

German Language Declaration

VERTRETUNGSVOLMACHT: Als benannter Erfinder beauftrage ich hiermit den (die) nachstehend aufgeführten Patentanwalt (Patentanwälte) und/oder Vertreter mit der Verfolgung der vorliegenden Patentanmeldung sowie mit der Abwicklung aller damit verbundenen Angelegenheiten vor dem US-Patent- und Markenamt: (Name(n) und Registrationsnummer(n) auflisten)

Postanschrift:

Telefonische Auskünfte: (Name und Telefonnummer)

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: (list name and registration number)
 William R. Coffey, Reg. No. 24023; Jerry E. Hyland, Reg. No. 20904; Richard D. Conard, Reg. No. 27321; Steven R. Lammert, Reg. No. 27653; John P. Breen, Reg. No. 38833; Mark Newman, Reg. No. 31472
 Send Correspondence to: Steven R. Lammert,
BARNES & THORNBURG

1313 Merchants Bank Building
 Direct Telephone Calls to: (name and telephone number)
 Indianapolis, IN 46204
 (317) 638-1313

Vor- und Zuname des einzigen oder ersten Erfinders	Full name of sole or first inventor Jason Scott SAWYER	
Unterschrift des Erfinders	Datum	Inventor's signature  Date Day/Month/Year 25/12/97
Wohnsitz	Residence US	
Staatsangehörigkeit	Citizenship US	
Postanschrift	Post Office Address 5718 North Winthrop Avenue Indianapolis, IN 46220 US	
Vor- und Zuname des zweiten Miterfinders (falls zutreffend)	Stephen M. SPAETHE Full name of second joint inventor, if any	
Unterschrift des zweiten Erfinders	Datum	Second Inventor's signature  Date Day/Month/Year 25/12/97
Wohnsitz	Residence US	
Staatsangehörigkeit	Citizenship US	
Postanschrift	Post Office Address 5845 Indianola Indianapolis, IN 46220 US	

(Im Falle dritter und weiterer Miterfinder sind die entsprechenden Informationen und Unterschriften hinzuzufügen.)

(Supply similar information and signature for third and subsequent joint inventors.)

German Language Declaration

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POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: (list name and registration number)
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Vor- und Zuname des einzigen oder ersten Erfinders	^{third} Full name of one second inventor James Jacob STARLING		
Unterschrift des Erfinders	Datum	Inventor's signature	Date Day/Month/Year <i>James Jacob Starling</i> 25/02/97
Wohnsitz	Residence US		
Staatsangehörigkeit	Citizenship US		
Postanschrift	Post Office Address 1126 Hillcrest Drive Carmel, Indiana 46033 US		
Vor- und Zuname des zweiten Miterfinders (falls zutreffend)	^{fourth} Full name of second joint inventor, if any Gabriele JEDLITSCHKA		
Unterschrift des zweiten Erfinders	Datum	Second Inventor's signature	Date Day/Month/Year
Wohnsitz	Residence DE		
Staatsangehörigkeit	Citizenship DE		
Postanschrift	Post Office Address Johann-Sebastian-Bach-Strasse 51 D-69245 Bammental Germany (DE)		

(Im Falle dritter und weiterer Miterfinder sind die entsprechenden Informationen und Unterschriften hinzuzufügen.)

(Supply similar information and signature for third and subsequent joint inventors.)

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HUBER SCHUESSLER PATENTANW.
Attorney Docket No. 149 6221 422708
X-9776ANR. 536 S.6/10
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PTO/SB/103 (3-96)

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POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and conduct all business in the Patent and Trademark Office connected therewith (list name and registration number) William R. Coffey, Reg. No. 24023; Jerry E. Hyland, Reg. No. 20904; Richard D. Conard, Reg. No. 27321; Steven R. Lammert, Reg. No. 27653; John P. Broen, Reg. No. 38833; Mark J. Newman, Reg. No. 31472
Send Correspondence to Steven R. Lammert
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Indianapolis, IN 46204
(317) 636-1313

Vor- und Zuname des einzigen oder ersten Erfinders	THIRD Full name of first inventor James Jacob STARLING	
Unterschrift des Erfinders	Datum	Inventor's signature Date Day/Month/Year
Wohnsitz	Residence US	
Staatsangehörigkeit	Citizenship US	
Postanschrift	Post Office Address 1126 Hillcrest Drive Carmel, Indiana 46033 US	
Vor- und Zuname des zweiten Mitinventors (falls zutreffend)	fourth Gabriele JEDLITSCHKE	
Unterschrift des zweiten Erfinders	Datum	Second Inventor's signature Date Day/Month/Year
G. Jelditschke Feb. 24, 1997		G. Jelditschke 24 - 2 - 1997
Wohnsitz	Residence DE	
Staatsangehörigkeit	Citizenship DE	
Postanschrift	Post Office Address Johann-Sebastian-Bach-Strasse 51 D-6926 Bammental Germany (DE)	
Im Falle drüber und weiterer Mitinventoren sind die entsprechenden Informationen und Unterschriften hinzuzufügen.) (Supply similar information and signatures for third and subsequent joint inventors.)		

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HUBER SCHUESSLER PATENTANW.

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POWER OF ATTORNEY: As a named inventor, I hereby appoint(s) following attorney(s) and/or agent(s) to prosecute this application and conduct all business in the Patent and Trademark Office connected therewith. (See name and registration number)
 William R. Coffey, Reg. No. 24023; Jerry E. Hyland, Reg. No. 20904; Richard D. Conard, Reg. No. 27321; Steven R. Lammert, Reg. No. 27653; John P. Breen, Reg. No. 38833; Mark M. Newman, Reg. No. 31473
 Send Correspondence to: Steven R. Lammert
 HAROLD & THORNTON, INC.
 1313 Merchants Bank Building
 Direct Telephone Calls to: (Name and telephone number)
 Indianapolis, IN 46204
 (317) 638-1313

Vor- und Zuname des einzigen oder ersten Erfinders	First Full name of sole or first inventor Ihaka LAMBERT	
Unterschrift des Erfinders <i>Ihaka LAMBERT</i>	Datum <i>Feb. 24, 1997</i>	Day/Month/Year <i>24-2-1997</i>
Wehnsitz	Residence	DE
Staatsangehörigkeit	Citizenship	DE
Postanschrift	Post Office Address Johann-Sebastian-Bach-Strasse 51 D-69245 Bensental Germany (DE)	
Vor- und Zuname des zweiten Mitinventors (falls anzureichend)	Second Inventor's name Dieter KEPPLER	
Unterschrift des zweiten Erfinders <i>Dieter KEPPLER</i>	Datum <i>Feb. 24, 1997</i>	Day/Month/Year <i>24-2-1997</i>
Wehnsitz	Residence	DE
Staatsangehörigkeit	Citizenship	DE
Postanschrift	Post Office Address Im Haspel 41a D-69221 Dossenheim Germany (DE)	
Falls dritter und weiterer Mitinventoren sind die entsprechenden Informationen und Unterschriften hinzuzufügen.) (Supply similar information and signatures for third and subsequent joint inventors.)		

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